

REMARKS

Post-Decision on Appeal, claims 1-4, 6-7, 9-13, 15-18, 21-30, and 32-37 are rejected.

In this Amendment, Applicant cancels without prejudice claims 12, 16, 17, 28, and 30, amends all independent claims (1, 10, 18, 24, 29, 32, and 34), and provides a Declaration under 37 C.F.R. §1.132.

If this Request for Continued Examination, Amendment, and Remarks pointing out specific support in the specification for each amendment, does not put the application in condition for allowance, Applicant accedes to the Board's recommendation and hereby respectfully requests an interview with the Examiner and a biotechnology technical quality assurance specialist.

Applicant's representative discussed the Board's reasoning about why such an interview would advance prosecution with the Examiner in a March 23, 2009 telephone conversation, where Applicant initially requested this interview based on the Board's recommendation (Record of Oral Hearing February 3, 2009, mailed March 13, 2009, p. 23 line 24 to p. 24 line 15):

Judge Green: I think a bio-tech specialist gives you a party who's not been involved all the way through prosecution and may help both you and the Examiner take that step back that you need and approach it in a way and maybe work as, you know, as an arbitrator, on [sic a] language would be mutually acceptable to both parties.

Ms. Lyman: That, that was my third point this morning, to try to work out acceptable claim [sic plain] language. We will do that in prosecution.

Judge Adams: This is a great – I mean with that, with that meeting, this is a great starting point, This is what the prior art is, this is what mine is. Somehow there's something here possibly, we just need to figure out what the appropriate language is that gets us away from Niels [Krejci] towards this, right. And if we can – if you can sit down, perhaps draw this out on a white board over in the Corps, and say this is what we have and we have support for that, but you've got to have the support for it. And this is what's going on with the prior art, now it's just a matter of what kind of language is comfortable to both parties to get this case through the --- right?

In the March 23, 2009 telephone conversation, the Examiner said that prosecution first needed to be re-opened before such an Interview could be scheduled.

Applicant now hereby re-opens prosecution, provides claims amendments and specific support for each amendment as the Board noted, provides a Declaration under 37 C.F.R. §1.132 as the Board noted, and also requests an Interview with the Examiner and the Biotech Specialist as the Board noted, should the Examiner find that the Amendment does not put the application in condition for allowance.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 1-4, 6-7, 9-11, 13, 15, 18, 21-27, 29, and 32-37 are rejected under 35 U.S.C. §102(b) as anticipated by Krejci.

Each of the independent claims (1, 10, 18, 24, 29, 32, and 34) is now amended to clarify that Applicant's matrix is cast, frozen, and dehydrated. The amendment is supported at least at p. 11 lines 7-

10 and 16-17. Because Krejci's matrix uses skin harvested from a cadaver which is processed to remove cells, Krejci's matrix is not cast, frozen, and dehydrated.

Each of the independent claims is now amended to clarify that Applicant's matrix is prepared from a matrix-forming collagen-containing fluid. This amendment is supported at least at p. 12 lines 3-22. Because Krejci's matrix uses skin harvested from a cadaver which is processed to remove cells, Krejci's matrix is not prepared from a matrix-forming collagen-containing fluid.

Each of the independent claims is now amended to clarify that Applicant's dermal cells provide a cellular lamination layer on a non-perforated matrix within a shorter time period than is possible using a perforated matrix. This amendment is supported at least at p. 20 lines 12-20. Because Krejci's matrix is perforated, Krejci's matrix does not provide a cellular lamination layer in as short a time as Applicant's non-perforated matrix.

For at least these reasons, Applicant respectfully asserts that Krejci does not anticipate claims 1-4, 6-7, 9-11, 13, 15, 18, 21-27, 29, and 32-37 and requests the rejection be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 12, 16-17, 28, and 30 are rejected under 35 U.S.C. §103(a) as obvious over Krejci and further in view of Boyce and Boyce U.S. Patent No. 5,976,878.

Claims 12, 16-17, 28, and 30 are canceled, rendering the rejection moot. Applicant thus respectfully requests its withdrawal.

CONCLUSION

Applicant respectfully asserts that the claims are in complete condition for allowance, and reiterated his request for an interview with the Examiner and a Biotech Specialist should a Notice of Allowance not issue. Fees to Request Continued Examination are simultaneously made by Electronic Funds Transfer. The Office is authorized to charge any other fees deemed necessary to Deposit Account No. 20-0809.

The Examiner is invited to contact Applicant's undersigned representative with questions.

Respectfully submitted,
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